

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

JAYLEEN HERRERA,

Plaintiff,

-against-

BOSTON MARKET
CORPORATION,

Defendant.

MEMORANDUM AND ORDER

Case No. 20-CV-4284

For the Plaintiff:

BRITTANY A. STEVENS
Phillips & Associates, PLLC
45 Broadway
Suite 430
New York, NY 10006

BLOCK, Senior District Judge:

On September 6, 2024, the Court referred to Magistrate Judge Peggy Kuo a motion for default judgment by Jayleen Herrera (“Plaintiff” or “Herrera”) in this gender discrimination action against Boston Market Corporation (“Defendant” or “Boston Market”).

On March 7, 2025, Magistrate Judge Kuo issued a Report & Recommendation (“R&R”) recommending that the Court grant Plaintiff’s motion in part and deny it in part. In particular the R&R recommended the Court grant Plaintiff’s motion with respect to her gender discrimination and retaliation claims,

and award plaintiff back pay, emotional distress damages, and attorney's fee. But the R&R recommended the Court also temporally limit the award of back pay and decline to award punitive damages.

The R&R gave the parties fourteen days to file objections, i.e., until March 21, 2025, and warned that “[f]ailure to file objections within the specified time waives the right to appeal any order or judgment entered based on this [R&R].” ECF No. 42, at 28–29. No objections have been filed. If clear notice has been given of the consequences of failing to object, and there are no objections, the Court may adopt the R&R without *de novo* review. *See Thomas v. Arn*, 474 U.S. 140, 149–50 (1985); *Smith v. Campbell*, 782 F.3d 93, 102 (2d Cir. 2015) (“Where parties receive clear notice of the consequences, failure to timely object to a magistrate’s report and recommendation operates as a waiver of further judicial review of the magistrate’s decision.” (citations omitted)). The Court will, however, excuse the failure to object and conduct *de novo* review if it appears that the magistrate judge may have committed plain error. *See Spence v. Superintendent, Great Meadow Corr. Facility*, 219 F.3d 162, 174 (2d Cir. 2000).

No error, plain or otherwise, appears on the face of the R&R. Accordingly, the Court adopts the R&R without *de novo* review. The Court enters judgment against Defendant and awards Plaintiff the following damages: (1) \$6,036.01 in

back pay, plus pre-judgment interest; (2) \$63,000 in emotional distress damages; (3) \$91,353.50 in attorneys' fees; and (4) \$5,153.95 in costs.

SO ORDERED.

/S/ Frederic Block
FREDERIC BLOCK
Senior United States District Judge

Brooklyn, New York
March 27, 2024